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Baxter International Inc. and Baxter Healthcare Corporation

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

FRESENIUS MEDICAL CARE HOLDINGS,
INC., a New York corporation; and FRESENIUS
USA, INC., a Massachusetts corporation,

Plaintiffs and Counterdefendants,

v.

BAXTER INTERNATIONAL, INC., a
Delaware corporation; and BAXTER
HEALTHCARE CORPORATION, a
Delaware corporation,

Defendants and Counterclaimants.

Case No. C 03-01431 SBA (EDL)

**STIPULATION AND ORDER
REGARDING EQUIPMENT FOR TRIAL**

Date: June 19, 2006
Time: 8:30 a.m.
Judge: Hon. Sandra Brown Armstrong

Additional Counsel Continued from previous page:

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Attorneys for Defendants and Counterclaimants
Baxter International Inc. and Baxter Healthcare Corporation

STIPULATION

Plaintiffs and Counterdefendants, FRESenius MEDICAL CARE HOLDINGS, INC., and FRESenius USA, INC. (collectively "Fresenius") and Defendants and Counterclaimants BAXTER INTERNATIONAL, INC. and BAXTER HEALTHCARE CORPORATION (collectively "Baxter") hereby STIPULATE as follows:

In connection with the trial scheduled for June 19, 2006, counsel of record for Fresenius, the firm of Fish & Richardson, as well as support staff and vendors assisting such counsel, and counsel of record for Baxter, the firms of Bell, Boyd & Lloyd, Townsend and Townsend and Crew, and Gardner, Carton & Douglas, as well as support staff and vendors assisting such counsel, may bring into the Federal Courthouse in Oakland, California, located at 1301 Clay Street, #400 South, Oakland, California, and set up in the courtroom of the Honorable Sandra B. Armstrong, certain equipment and materials for purposes of facilitating demonstrative exhibits which may be used during the hearing.

The equipment and materials may include easels, exhibit boards, a projector, screen, switch box and cables, laptop computers, four 15" flat panel displays, digital ELMO visual presenter, audio speaker, the stands and tables necessary to support such equipment.

Additionally the parties may attempt to introduce the following physical exhibits and equipment at trial: Sarns 3M Perfusion System 9000; Seratron hemodialysis machine, including the Seratron Dialysis Control System, the Seratron PRSM, and the Seratron Modeling Programmer; Fresenius CMS08 / A2008D; computer system, touch screen user interface, and software known as the EloDemo; Cobe Centry System 3; Pacesetter APSII Programmer; Heparin Pump; Proportioning Pump; Blood Pump; Fresenius 2008H machine; Fresenius 2008K machine; Baxter System 1000 (without monitor and touch screen); Baxter System 1000 monitor; Baxter System 1000 touch screen; Baxter System 1000 machine; Fresenius 2008C machine; Fresenius 2008D machine; Fresenius 5008 machine; Baxter TINA machine; and Gambro Phoenix machine. Inclusion on this list is neither an admission that the equipment is admissible at trial nor an

1 admission that the equipment qualifies as prior art. Accordingly, the parties reserve all rights to
2 object to the admission, identification, and/or demonstration of all equipment listed herein.

3 Further, the parties request that they be allowed access to the Courtroom on Friday,
4 June 16, at 1:00 p.m. for the purposes of setting up and testing this equipment prior to the
5 commencement of trial.

6
7 Dated: June 9, 2006

FISH & RICHARDSON P.C.

8 By: /s/ Thomas S. McClenahan
9 Thomas S. McClenahan

10 Attorneys for Plaintiffs and Counterdefendants
11 FRESENIUS MEDICAL CARE HOLDINGS,
12 INC. and FRESENIUS USA, INC.

13 Dated: June 9, 2006

BELL, BOYD & LLOYD LLC

14 By: /s/ Michael J. Abernathy
15 Michael J. Abernathy

16 Attorneys for Defendants and Counterclaimants
17 BAXTER INTERNATIONAL, INC. and
18 BAXTER HEALTHCARE CORPORATION

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1 Pursuant to General Order No. 45, Section X(B) regarding signatures, I attest under
2 penalty of perjury that concurrence in the filing of this document has been obtained from
3 Michael J. Abernathy.

4 Dated: June 9, 2006

FISH & RICHARDSON P.C.


5
6 By: /s/ Thomas S. McClenahan
Thomas S. McClenahan

7 Attorneys for Plaintiffs and Counterdefendants
8 FRESENIUS MEDICAL CARE HOLDINGS,
9 INC. and FRESENIUS USA, INC.
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ORDER

IT IS SO ORDERED. Court staff, including assistant U.S. Marshals on duty at the time, are directed to allow, and to take such steps as reasonably necessary to facilitate the foregoing activity.

DATED: June 12, 2006

By: 
HON. SAUNDRA B. ARMSTRONG
United States District Judge